

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 971 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

M/S V R PATEL

Versus

O P CHAUHAN ,LABOUR ENFORCEMENT OFFICER

Appearance:

Mr.K.G.Sukhwani for the petitioners.

Mr. Sunil C.Patel, Addl.Standing Counsel for respondent
No.1.

Mr. S.A.Pandya, APP for the respondent No.2.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 05/11/96

ORAL JUDGEMENT

By way of this petition, the petitioners have prayed to quash the complaints at Annexures "A" and "B" being No.13824/86 and 13839/86 filed by respondent No.1, the Labour Enforcement Officer (Central), on the ground that the same are without jurisdiction and authority of law. It is the contention of the petitioners that

respondent No.1 has no authority and/or power to file complaint under section 22A of the Minimum Wages Act as he is not duly appointed Inspector under section 19 of the Act This Court , on 27-6-91, while granting Rule has stayed the further proceedings of both the criminal cases .

Reading the averments made in the petition, it appears that the very respondent filed a similar complaint against the petitioners being Criminal Case No.21587/85 in the Court of the learned Metropolitan Magistrate, Ahmedabad for the alleged breach of Rules 25 (2), 21 (1), 26 (2), 22, 26(1) and 26 (5) read with section 22-A of the Minimum Wages Act, and the learned Metropolitan Magistrate acquitted the petitioners by holding that respondent No.1 was not the inspector who could inspect because he was the Inspector of the Central Government, while, in fact, the provisions of the Minimum Wages Act are to be implemented by the State Government and the Inspector of the State Government could have visited the firm and could have filed the complaint. It is an undisputed fact that against the said judgment and order, the present respondent No.1 filed an appeal being Criminal Appeal No. 549 of 1987 in this Court and this Court (B.S.Kapadia,J - as he then was) by its judgment and order dated 8-7-94 dismissed the appeal and confirmed the judgment and order passed by the learned Metropolitan Magistrate, Ahmedabad. In view of this, needless to say that the respondent No.1 is not the Inspector duly appointed under section 19 of the Act and, therefore, he had no authority to file the complaint for the breach of the provisions of the Act and the Rules. In view of this, this petition is required to be allowed.

In the result, the petition is allowed. The complaints at Annexures "A" and "B" to the petition viz Nos. 13824/86 and 13839/86 are hereby quashed and set aside. Rule is made absolute with no order as to costs. Ad-interim relief stands vacated.

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